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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/501,463

10/27/2004

Jiri Vanek

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EGBERT LAW OFFICES
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EXAMINER

DWIVEDI, VIKANSHA S

ART UNIT

PAPER NUMBER

3746

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No. 10/501,463	Applicant(s) VANEK, JIRI	
	Examiner Vikansha S. Dwivedi	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/12/2004 thru 1/11/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5 and 7-13 is/are rejected.
- 7) ☒ Claim(s) 4 and 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/27/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The use of term "exact, especially mechanically linear dosage" should be reviewed and written in proper English.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "2" and "3" have both been used to designate Occlusal path. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 5, 8-10, 12 and 13 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The make and use of the "tetralateral prism" and the "wiper blades" is not enabled, disclosed in the specification, or shown in the figures.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Monk et al. 5,433,588.

Monk discloses a peristaltic rotation pump seen in Figure 1 with exact, especially mechanically linear dosing, comprises: a pump segment 81 placed on a working path 116, is said path being adjacent to an elevated circular supporting occlusal path and a rotor 42 with pressure rollers 46-48, characteristic by the fact, said pump segment 81 extending along the working path 116, both ends of said pump segment leaning against a supporting surface 18 outside the working path 116, the working path being transversally grooved, 116 is grooved as seen in figure 3, at the place of contact with the compressed pump segment 81 and being adjacent within all its length to an elevated circular supporting occlusal path, figure 3, on which at least two pressure rollers roll 46-48, the rollers being freely sliding mounted with their outside surface in a hollow slide mounting of the pressure blocks placed flexibly in the hollow arms of at least double-arm rotor, col. 3 ll. 25-40, the rotor being connected to a shaft 43 of the step motor (43 connected to the motor), while the supporting occlusal path is elevated in the direction to the rotor rotation center above the transversally grooved working path comprised of the lead-in path, occlusal path and releasing path; wherein said pump segment forms angle $\alpha = 90$ degree with the radius of said working path at the point of diversion of the pump segment from the working path, seen in figure 3.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 5, 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monk.

Monk discloses the general conditions of the claimed invention except for the express disclosure of distance $d < \text{twice the width of the pump segment wall}$, and at the point of absolute release of the pump segment, the supporting occlusal path being elevated above the releasing path by a distance less or equal to the external diameter of the pump segment, while the angle length of the occlusal path equals to the angle length of the releasing path corresponding to the distance from the point where the pressure roller starts releasing the pump segment to the point of complete release of the pump segment by the pressure roller, where the pressing force of the pressing roller to the pump segment is zero, occlusal path is defined by size of a central angle of the rotor rotation and is calculated from the formula $360.\text{degree}./\text{number of arms of the rotor}$ and pressing block moves in the range of 1.1 to 2.0 multiple of the external diameter of the pump segment. It would have been obvious to one having ordinary skill in the art at the time the invention was made to find the right relationship between the releasing path and the diameter of the pump segment, occlusal path angle and releasing path angle and the range in which the pressing block moves, since the claimed values are merely an optimum or workable range. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art, see MPEP 2144.05 II A.

Claim Objections

Claims 4 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vikansha S. Dwivedi whose telephone number is 571-272-7834. The examiner can normally be reached on M-F, 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571-272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Vikanska

VSD

December 21, 2006

Ehud Gartenberg

**EHUD GARTENBERG
SUPERVISORY PATENT EXAMINER**